

POLICY GOVERNING INVOLUNTARY SEPARATION

1. Separation for Cause. Officers who do not maintain required standards of performance or professional or personal conduct may be disciplined when appropriate and/or may be processed for separation for cause in accordance with this instruction when there is reason to believe that one or more of the following circumstances exist. Nothing in this instruction is intended to preclude trial by court-martial when appropriate.

a. Substandard Performance of Duty. Inability of an officer to maintain adequate levels of performance or conduct as evidenced by one or more of the following reasons:

(1) Failure to demonstrate acceptable qualities of leadership required of an officer in the member's grade.

(2) Failure to achieve or maintain acceptable standards of proficiency required of an officer in the member's grade.

(3) Failure to properly discharge duties expected of officers of the member's grade and experience.

(4) Failure to satisfactorily complete any course of training, instruction, or indoctrination which the officer has been ordered to undergo.

(5) A record of marginal service over an extended time as reflected in fitness reports covering two or more positions and signed by at least two reporting seniors.

(6) Personality disorders, when such disorders interfere with the officer's performance of duty and have been diagnosed by a physician or clinical psychologist in accordance with the Section on Mental Disorders, International Classification of Diseases and Injuries-9 (ICD-9), Diagnostic and Statistical Manual (DSM-IV) of Mental Disorders, and NAVMED P117 "Manual of the Medical Department."

(7) An officer who has been referred to a program of rehabilitation for personal abuse of drugs may be separated for failure, through inability or refusal, to participate in or

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successfully complete such a program. Nothing in this provision precludes separation of an officer who has been referred to such a program under any other provision of this instruction in appropriate cases.

(8) An officer who has been referred to a program of rehabilitation for alcohol abuse may be separated for failure, through inability or refusal, to participate in or successfully complete such a program. Nothing in this provision precludes separation of an officer who has been referred to such program under any other provision of this instruction in appropriate cases.

(9) Failure to conform to prescribed standards of dress, weight, personal appearance, or military deportment.

(10) Unsatisfactory performance of a warrant officer, not amounting to misconduct, or moral or professional dereliction.

b. Misconduct, or Moral or Professional Dereliction. Performance or personal or professional conduct (including unfitness on the part of a warrant officer) which is unbecoming an officer as evidenced by one or more of the following reasons:

(1) Commission of a military or civilian offense which could be punished by confinement of 6 months or more and any other misconduct which would require specific intent for conviction.

(2) Unlawful drug involvement. Processing for separation is mandatory. An officer shall be separated if an approved finding of unlawful drug involvement is made. Exception to mandatory processing or separation may be made on a case-by-case basis by the Secretary when the officer's involvement is limited to personal use of drugs and the officer is judged to have potential for future useful service as an officer and is entered into a formal program of drug rehabilitation under reference (f).

(3) Sexual perversion.

(4) Intentional misrepresentation or omission of material fact in obtaining appointment.

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(5) Fraudulent entry into an Armed Force or the fraudulent procurement of commission or warrant as an officer in an Armed Force.

(6) Intentional misrepresentation or omission of material fact in official written documents or official oral statements.

(7) Failure to satisfactorily complete any course of training, instruction, or indoctrination which the officer has been ordered to undergo when such failure is willful or the result of gross indifference.

(8) Marginal or unsatisfactory performance of duty over an extended period, as reflected in successive periodic or special fitness reports, when such performance is willful or the result of gross indifference.

(9) Intentional mismanagement or discreditable management of personal affairs, including financial affairs.

(10) Misconduct or dereliction resulting in loss of professional status including withdrawal, suspension, or abandonment of license, endorsement, certification, or clinical medical privileges necessary to perform military duties in the officer's competitive category or Marine Corps Occupational Field. When the loss of professional qualification results solely from the removal of the ecclesiastical endorsement, processing under paragraph 2 of this enclosure is required.

(11) A pattern of discreditable involvement with military or civilian authorities, notwithstanding the fact that such misconduct has not resulted in judicial or nonjudicial punishment under the UCMJ.

(12) Conviction by civil authorities (foreign or domestic) or action taken which is tantamount to a finding of guilty, which, if service connected, would amount to an offense under the UCMJ.

(13) One or more substantiated incidents of serious misconduct resulting from the officer's active participation in extremist or supremacist activities which, in the independent judgment of the convening authority, is more likely than not to

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undermine unit cohesion or be detrimental to the good order, discipline, or mission accomplishment of the command or unit. Such misconduct must relate to: (1) illegal discrimination based on race, creed, color, sex, religion, or national origin; or (2) advocating the use of force or violence against any Federal, state, or local Government, or any unit or agency thereof, in contravention of Federal, State, or local laws.

(14) An officer who has been referred to a program of rehabilitation, education and counseling for sex offenders may be separated for failure, through inability or refusal, to participate in such a program. Nothing in this provision precludes separation of an officer who has been referred to such a program under any other provision of this instruction in appropriate cases. An officer shall be separated under this provision if the following approved findings are made: A service member who has admitted to the offense(s), or whose case has been substantiated, or who has been found to have committed the offense(s) at nonjudicial punishment (NJP), or who has been found guilty at a criminal trial and thereafter refuses to cooperate with or complete rehabilitation, education, and counseling programs, or who does not cease his/her abusive behaviors.

c. Homosexual Conduct

(1) Homosexual conduct is grounds for separation from the Naval Service. Homosexual conduct includes homosexual acts, a statement by a service member that demonstrates a propensity or intent to engage in homosexual acts, or a homosexual marriage or attempted homosexual marriage. A statement by a service member that demonstrates a propensity or intent to engage in homosexual acts is grounds for separation not because it reflects a member's sexual orientation, but because the statement indicates a likelihood the service member engages in or will engage in homosexual acts. A service member's sexual orientation is considered a personal and private matter, and is not a bar to continued service unless manifested by homosexual conduct under the terms set forth in subparagraphs (a) through (c). Commanders are to report homosexual conduct to CNPC (NPC-834) or CMC (Code JAM), as appropriate. The Show Cause Authority (SCA) and a BOI shall recommend an officer for separation if one or more of the following approved findings is made:

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(a) The officer has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts, unless there are further approved findings the officer has demonstrated:

1. Such acts are a departure from the officer's usual and customary behavior; and

2. Such acts, under all the circumstances, are unlikely to recur; and

3. Such acts were not accomplished by use of force, coercion, or intimidation; and

4. Under the particular circumstances of the case, the officer's continued presence in the Naval Service is consistent with the interest of the Naval Service in proper discipline, good order, and morale of the service; and

5. The officer does not have a propensity or intent to engage in homosexual acts.

(b) The officer has made a statement that he or she is a homosexual or bisexual, or words to that effect, unless there is a further approved finding that the officer has demonstrated he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. A statement by an officer that he or she is homosexual or bisexual, or words to that effect, creates a rebuttable presumption that the officer engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The officer shall be advised of the presumption and given the opportunity to rebut the presumption by presenting evidence demonstrating that he or she does not engage in, attempt to engage in, have a propensity to engage in, or intend to engage in homosexual acts. Propensity to engage in homosexual acts means more than an abstract preference or desire to engage in homosexual acts. It indicates a likelihood that a person engages in or will engage in homosexual acts. In determining whether an officer has successfully rebutted the presumption that he or she engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, some or all of the following may be considered (this list is not exhaustive):

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acts;                    1. Whether the officer has engaged in homosexual

2. The officer's credibility;

3. Testimony from others about the officer's past conduct, character, and credibility;

4. The nature and circumstances of the officer's statement; and

5. Any other evidence relevant to whether the officer is likely to engage in homosexual acts.

(c) The officer has married or attempted to marry a person known to be of the same sex (as evidenced by the external anatomy of the persons involved).

(2) The commissioned officer shall bear the burden of proving throughout the proceedings, by a preponderance of the evidence, that retention is warranted under the limited circumstances described in 1c(1)(a) and 1c(1)(b) of this enclosure.

(3) Nothing requires that an officer be processed for separation when a determination is made that:

(a) The officer engaged in acts, made statements, or married or attempted to marry a person known to be of the same biological sex solely for the purposes of avoiding military service; and

(b) Separation of the officer would not be in the best interest of the Armed Forces.

(4) A commissioned officer may be considered for separation under all reasons for which minimum criteria are met; however, separate findings under each reason are required. No officer shall be retained without the approval of SECNAV when an approved finding of homosexual conduct is made. The Secretary is the separation authority in all cases.

d. Retention is not Consistent with the Interest of National Security. An officer (except a retired officer) may be separated

from the Naval Service when it is determined that the officer's retention is clearly inconsistent with the interests of national security. This provision applies when a determination has been made under the provisions of reference (g) that administrative separation is appropriate. An officer considered for separation under the provisions of reference (g) will be afforded all the rights provided in enclosure (8) of this instruction.

e. Separation in Lieu of Trial by Court-Martial

(1) Basis. An officer may be separated in lieu of trial by court-martial upon the officer's request if charges have been preferred with respect to an offense for which a punitive discharge is authorized. This provision may not be used when Rule for Courts-Martial (R.C.M.) 1003(d) of the Manual for Courts-Martial provides the sole basis for a punitive discharge unless the charges have been referred to a court-martial authorized to adjudge a punitive discharge.

(2) Characterization of Service. Under Other Than Honorable Conditions, but General (Under Honorable Conditions) may be warranted under the guidelines in enclosure (5). Characterization of service as Honorable is not authorized unless the respondent's record is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Procedures

(a) The request for discharge shall be submitted in writing and signed by the officer.

(b) The officer shall be afforded an opportunity to consult with qualified counsel. If the member refuses to do so, the commanding officer shall prepare a statement to this effect which shall be attached to the file, and the officer shall state that he or she has waived the right to consult with counsel.

(c) Unless the officer has waived the right to counsel, the request shall also be signed by counsel.

(d) In the written request, the officer shall state that he or she understands the following:

1. The elements of the offense or offenses charged;

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2. That characterization of service under Other Than Honorable Conditions is authorized; and

3. The adverse nature of such a characterization and possible consequences.

(e) The request shall also include:

1. An acknowledgment of guilt of one or more of the offenses charged, or of any lesser included offense, for which a punitive discharge is authorized; and

2. A summary of the evidence or list of documents (or copies thereof) provided to the officer pertaining to the offenses for which a punitive discharge is authorized.

(f) Statements by the officer or the officer's counsel submitted in connection with a request under this subsection are not admissible against the member in a court-martial except as provided by Military Rule of Evidence 410, Manual for Courts-Martial.

f. Multiple Reasons. An officer shall be processed for separation for all of the aforementioned reasons which are applicable.

2. Removal of Ecclesiastical Endorsement. Officers in the Chaplain Corps who can no longer continue professional service as a chaplain because an ecclesiastical endorsing agency has withdrawn its endorsement shall be processed for separation in accordance with reference (h) and this instruction using the notification procedure contained in reference (h). Processing solely under this paragraph is not authorized when there is reason to process for separation for cause under any other provision of this instruction, except when authorized by the Secretary in unusual circumstances based upon a recommendation by CHNAVPERS.

3. Failure of Selection for Promotion. It is Department of the Navy policy to retain competent and effective officers who satisfy the authorized strength needs, by grade, competitive category, or special skills authorized by CNO or CMC. However, some officers, who may be less qualified to fill skill needs, must be terminated by reason of failure of selection for



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promotion, by reason of involuntary separation, or retirement for years of service. In execution of this policy, officers may be separated or released from active duty for reason of failure of selection, involuntary separation, and/or years of service as follows:

a. Regular officers above the grade of CWO-5

(1) Regular O-2s, other than LDOs, who twice fail of selection for and who are not on a list of officers recommended for promotion to O-3 shall be Honorably discharged in accordance with section 631 of reference (a) on the date requested by the officer and approved by SECNAV, but not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board that considered the officer for the second time is approved.

(2) Regular O-3s and O-4s, other than LDOs, who twice fail of selection for and who are not on a list of officers recommended for promotion to the next higher grade shall be Honorably discharged in accordance with section 632 of reference (a), unless selectively continued to meet requirements in his or her competitive category and grade in accordance with section 637(a) of reference (a), on the date requested by the officer and approved by SECNAV, but not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board which considered the officer for the second time is approved, except as provided in (3).

(3) Exceptions concerning discharge under paragraphs (1) and (2) above:

(a) A female officer appointed under former section 5590 of reference (a) who before 15 September 1981 had not twice failed of selection for promotion to the next higher grade and is not selected for promotion to a higher grade on or after 15 September 1981 may not be discharged earlier than such officer would have been discharged had reference (i) not been enacted.

(b) A female officer appointed under former section 5590 of reference (a) before 15 September 1981 or a Nurse Corps officer who:

1. Was serving in the grade of O-3 on 15 September 1981; and who

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2. Would have been discharged under former section 6396(c) or former section 6401 of reference (a) on 30 June of the fiscal year in which that officer was not on a promotion list and had completed 13 years of active commissioned service; and who

3. Is subject to discharge under section 632 of reference (a) because such officer had twice failed of selection for promotion shall, if such officer has not completed 13 years of active commissioned service at the time otherwise prescribed for the discharge of such officer under such section and such officer so requests, not be discharged until 30 June of the fiscal year in which the officer completes 13 years of active commissioned service.

(c) A female officer appointed under former section 5590 of reference (a) before 15 September 1981 or a Nurse Corps officer who:

1. Was serving in the grade of O-2 on 15 September 1981; and who

2. Would have been discharged under former section 6396(d) or former section 6402 of reference (a) on 30 June of the fiscal year in which that officer was not on a promotion list and had completed 7 years of active commissioned service; and who

3. Is subject to discharge under section 631 of reference (a) because the officer had twice failed of selection for promotion -- shall not be discharged until 30 June of the fiscal year in which the officer completes 7 years of active commissioned service if the officer has not completed 7 years of active commissioned service at the time otherwise prescribed for the discharge under specified section and the officer so requests.

(d) Per DOD Directive 1320.8, "Continuation of Regular Commissioned Officers on Active Duty and Reserve Commissioned Officers on the Reserve Active Status List" 21 October 1996 (NOTAL), Regular officers serving in the grade of O-4 who are subject to discharge under section 632(a) of reference (a) shall normally be selected for continuation by selective continuation boards if the officer will qualify for

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retirement under section 6323 of reference (a) within 6 years of the date of such continuation, unless the officer is being processed for separation for cause.

(4) A Regular O-5, unless selectively continued to meet requirements in his or her competitive category and grade per section 637(b) of reference (a) shall, if not on a promotion list to O-6, be involuntarily retired on the 1<sup>st</sup> day of the month after the month in which he or she completes 28 years of active commissioned service per section 633 of reference (a). However, O-5s who are not on a promotion list may be subject to selective early retirement after two failures of selection to O-6 in accordance with section 638 of reference (a), unless they have been approved for voluntary retirement, or they are to be involuntarily retired under any provision of law, during the fiscal year in which the selection board is convened or during the following fiscal year.

(5) A Regular O-6, unless selectively continued to meet requirements in his or her competitive category and grade in accordance with section 637(b) of reference (a), shall, if not on a promotion list to O-7 or retired earlier, be involuntarily retired on the 1<sup>st</sup> day of the month after the month in which he or she completes 30 years of active commissioned service in accordance with section 634 of reference (a). However, O-6s who are not on a promotion list may be subject to selective early retirement (SER) after 4 years in grade in accordance with section 638 of reference (a) unless they have been approved for voluntary retirement in the fiscal year in which the SER board convenes, or they are to be involuntarily retired under any provision of law, during the fiscal year in which the SER board is convened or during the following fiscal year.

(6) Unless continued under section 637(b) of reference (a), a Regular officer serving in the grade of O-7 who is not on a promotion list to O-8 shall, if not retired earlier, be retired on the 1<sup>st</sup> day of the 1<sup>st</sup> month beginning after the date of the 5<sup>th</sup> anniversary of his or her appointment to that grade or on the 1<sup>st</sup> day of the month after the month in which he or she completes 30 years of active commissioned service, whichever is later, in accordance with section 635 of reference (a). Such officer is, however, subject to selective early retirement under the provisions of section 638 of reference (a) if he or she has served at least 3½ years of active

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duty in the O-7 grade and is not on a list for promotion to O-8, unless they have been approved for voluntary retirement, or they are to be involuntarily retired under any provision of law, during the fiscal year in which the selection board is convened or during the following fiscal year.

(7) Unless continued under section 637(b) of reference (a), a Regular officer serving in the grade O-8 shall, if not retired earlier, be retired on the 1<sup>st</sup> day of the 1<sup>st</sup> month beginning after the date of the 5<sup>th</sup> anniversary of his or her appointment to that grade or on the 1<sup>st</sup> day of the month after the month in which he or she completes 35 years of active commissioned service, whichever is later, in accordance with section 636 of reference (a). Such officer is, however, subject to selective early retirement under the provisions of section 638 of reference (a) if he or she has served at least 3½ years of active duty in the grade of O-8, unless he or she has been approved for voluntary retirement, or he or she is to be involuntarily retired under any provision of law, during the fiscal year in which the selection board is convened or during the following fiscal year.

(8) Regular officers, other than warrant officers and LDOs, serving in the grades of O-4 through O-6 on 15 September 1981, or who were on a promotion list to such grades on that day, shall be retired on the date provided under the laws in effect on 14 September 1981, unless promoted or continued after that date under the provisions of reference (i).

(9) A deferral of retirement or separation and continuation on active duty shall be for a period not to exceed 5 years, but shall not extend beyond the date of the officer's 62<sup>nd</sup> birthday. However, in the case of officers serving in a grade above O-8, CNO or CMC may recommend to the Secretary that he request the President to defer the retirement until the 1<sup>st</sup> day of the month following the month in which the officer becomes 64 years of age. No more than 10 deferments to age 64, for all the armed forces, may be in effect at any one time to meet unusual requirements of the service.

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(10) In the case of an officer serving as a chaplain, the Secretary may defer retirement as required in the best interests of the Navy. Officers serving as Chief or Deputy Chief of Chaplains may, upon approval of the Secretary, have their retirement deferred. Such deferment may not extend beyond the first day of the month following the month in which the officer reaches 68 years of age.

(11) Notwithstanding any other section of this paragraph (failure of selection), an officer who is within 2 years of qualifying for retirement under section 6323 of reference (a) on the date on which he or she is to be discharged shall be retained on active duty until qualified for retirement under that section of law unless sooner discharged or retired for cause under the provisions of this instruction.

b. Reserve officers above the grade of CWO-5

(1) Naval Reserve officers on the active-duty list

(a) In the grades of O-2 or O-3: who twice fail of selection for promotion to a higher grade while on the active-duty list shall be involuntarily released from active duty and placed on the Reserve Active-Status List no later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the report of the selection board which considered the officer for the second time is approved. However, officers subject to separation under this paragraph may be selectively retained on active duty by a board convened by CHNAVPERS under the provisions of paragraph 15 of this enclosure, based on a need for that officer's specific skills and unique qualifications.

(b) In the grade of O-4: who twice fail of selection for promotion to the next higher grade while on the active-duty list shall, if qualified, be given an opportunity to request transfer to the Retired Reserve or if not so transferred, such officers shall be involuntarily released from active duty no later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the report of the selection board which considered the officer for the second time is approved, unless the officer is retained on active duty by a board convened by CHNAVPERS under the provisions of paragraph 15 of this enclosure, based on a need for that officer's specific skills and unique qualifications, or in accordance with section 12646 or section 12686 of reference (a).

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(c) In the grade of O-5: who twice fail of selection for promotion to the next higher grade while on the active-duty list shall, if qualified, be given an opportunity to request transfer to the Retired Reserve. If not so transferred, such officers shall be involuntarily released from active duty no later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the report of the selection board which considered the officer for the second time is approved, unless the officer is retained on active duty by a board convened by CHNAVPERS under the provisions of paragraph 15 of this enclosure, based on a need for that officer's specific skills and unique qualifications, or in accordance with section 12646 or section 12686 of reference (a).

(d) In the grade of O-6: shall be given an opportunity to request transfer to the Retired Reserve if qualified, or will be involuntarily released from active duty at the end of their current obligation unless the officer is retained on active duty by a board convened by CHNAVPERS under the provisions of paragraph 15 of this enclosure, based on a need for that officer's specific skills and unique qualifications. Such officers not qualified to transfer to the Retired Reserve will be involuntarily released from active duty and placed on the Reserve Active-Status List and, if not sooner selected for promotion to the next higher paygrade, discharged on the 1<sup>st</sup> day of the month following the month in which the officers complete 30 years total commissioned service in accordance with section 14706 of reference (a), unless retained in an active status under sections 12646 or 12686, or continued in an active status under section 14701 thereof.

(2) Marine Corps Reserve officers on active duty: in the grades of O-2 and O-3, who twice fail of selection for promotion to the next higher grade, shall be Honorably discharged no later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month after the month in which the report of the selection board that considered them for the second time is approved. Officers separating under this guidance who are authorized full payment of nondisability separation pay will enter into a written agreement to serve in the Ready Reserve for a period of not less than 3 years following separation from active duty.

(3) Marine Corps officers on active duty designated for the Active Reserve (AR) program:

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(a) In the grade of O-2: who twice fail of selection for promotion to a higher grade and whose names are not on a list of officers recommended for promotion to the next higher grade shall be honorably discharged not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the report of the selection board that considered the officer for the second time is approved. If an officer subject to discharge under this paragraph has not completed 8 years commissioned service, he or she shall be released from active duty and retained in an active status in the Reserve component until the completion of 8 years in a commissioned status.

(b) In the grade of O-3: who twice fail of selection for promotion to a higher grade and whose names are not on a list of officers recommended for promotion to the next higher grade shall be involuntarily released from active duty no later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the report of the selection board that considered the officer for the second time is approved.

(c) In the grade of O-4: career-designated officers who twice fail of selection for promotion to a higher grade, if not on a promotion list to a higher grade, shall, if not earlier removed from the Reserve Active-Status List, be involuntarily released from active duty no later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board that considered the officer for the second time is approved. Release will be deferred, if necessary, to enable the officer to become eligible for an active service retirement with pay, consistent with the service limitations established by section 14506 of reference (a). Under no circumstances will the officer be retained beyond the 1<sup>st</sup> day of the month following the month in which the officer completes 20 years of active federal service, at which time he or she shall be given an opportunity to request transfer to the Retired Reserve or to be honorably discharged.

(d) In the grade of O-5: career-designated officers who twice fail of selection for promotion to a higher grade, if not on a promotion list to a higher grade, shall, if not earlier removed from the Reserve Active-Status List, be involuntarily released from active duty. Release will occur not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board that considered the

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officer for the second time is approved. Release will be deferred, if necessary, to enable the officer to become eligible for an active service retirement, but not later than the first day of the month following the month in which the officer completes 28 years total commissioned service, (unless the officer is chosen for release from active duty by a Selective Early Release from Active Duty (SERAD) Board) at which time he or she shall be given an opportunity to request transfer to the Retired Reserve, if qualified, or be honorably discharged, as required by section 14507 of reference (a).

(e) In the grade of O-6: a career-designated AR colonel may only serve on active duty until completing 30 years total commissioned service (unless the officer is chosen for release from active duty by a SERAD Board) at which time he or she shall be given an opportunity to request transfer to the Retired Reserve, if qualified, or be honorably discharged, as required by section 14507 of reference (a).

(4) Naval Reserve Full-Time Support officers on active duty, but not on the active duty list. This category includes Training and Administration of the Reserve (TAR) officers, Naval Reserve Canvasser Recruiter (CANREC) officers, and temporary recall (Three Year Recall/One Year Recall/Active Duty for Special Work) officers:

(a) In the grade of O-1: who have been found not qualified for promotion to a higher grade shall be involuntarily released from active duty and eliminated from an active status at any time after being found not qualified for promotion in accordance with section 14503 of reference (a).

(b) In the grade of O-2: who twice fail of selection for promotion to a higher grade shall, if not on a promotion list to a higher grade, be involuntarily released from active duty and eliminated from an active status not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board which considered the officer for the second time is approved in accordance with sections 14504 and 14513 of reference (a), unless specifically retained on active duty under sections 12686 or 14504(b) thereof. If an officer subject to release from active duty and elimination from an active status under this subparagraph has not completed the required minimum commissioned service per section 651 of



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reference (a), he or she shall be released from active duty and retained in an active status until the completion of required service in accordance with section 12645 of reference (a).

(c) In the grade of O-3: who twice fail of selection for promotion to a higher grade shall, if not on a promotion list to a higher grade, be involuntarily released from active duty and eliminated from an active status not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board that considered the officer for the second time is approved in accordance with sections 14505 and 14513 of reference (a), unless specifically selected for continuation on the Reserve Active-Status List under section 14701 of reference (a) or retained on active duty under section 12646 or 12686 of reference (a).

(d) In the grade of O-4: who twice fail of selection for promotion to a higher grade shall, if not on a promotion list to a higher grade, be involuntarily released from active duty. Release from active duty will occur not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board that considered the officer for the second time is approved. TAR officers will be retained on active duty, if necessary, to enable the officer to become eligible for retirement with pay. Retention of TAR officers on active duty may not extend beyond the 1<sup>st</sup> day of the month following the month in which the officer first becomes eligible for retirement with pay (including early retirement). In no case shall retention of TAR O-4s on active duty extend beyond the 1<sup>st</sup> day of the month following the month in which the officer completes 20 years of commissioned service, unless the officer is selected for continuation on the Reserve Active-Status List under section 14701 of reference (a) or retained on active duty under section 12646 or section 12686 of reference (a).

(e) In the grade of O-5: who twice fail of selection for promotion to a higher grade shall, if not on a promotion list to a higher grade, be involuntarily released from active duty. Release from active duty will occur not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the selection board that considered the officer for the second time is approved. TAR officers will be retained on active duty, if necessary, to enable the officer to become eligible for retirement with pay. Retention of TAR officers on

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active duty may not extend beyond the 1<sup>st</sup> day of the month following the month in which the officer first becomes eligible for retirement with pay (including early retirement). In no case shall retention of TAR O-5s on active duty extend beyond the 1<sup>st</sup> day of the month following the month in which the officer completes 28 years of commissioned service, unless the officer is selected for continuation on the Reserve Active-Status List under section 14701 of reference (a) or retained on active duty under section 12646 or section 12686 of reference (a).

(f) In the grade of O-6: who are on active duty and whose names are not on a list of officers recommended for promotion to the next higher grade shall be involuntarily released from active duty upon completion of 30 years of commissioned service not later than the 1<sup>st</sup> day of the month following the month in which they complete that service, in accordance with sections 14507, 14514 and 14706 of reference (a), unless continued on the Reserve Active-Status List under section 14701 of reference (a) or retained on active duty under section 12646 or section 12686 of reference (a).

(5) Naval and Marine Corps Reserve (not on active duty); elimination from an active status:

(a) Subject to the completion of obligated service under section 651 of reference (a), a Reserve officer serving in the grade of O-2 in an active status who twice fails of selection to the next higher grade and whose name is not on a list of officers recommended for promotion shall be eliminated from an active status not later than the 1<sup>st</sup> day of the 7<sup>th</sup> month after the month in which the report of the selection board that considered the officer for the second time is approved in accordance with sections 6389, 14504 and 14513 of reference (a), unless retained under sections 12646 or 12686 or 14504(b)(1). Naval and Marine Corps Reserve officers will be retained in an active status until the completion of their military service obligation as established under section 651 of reference (a).

(b) A Reserve officer in an active status serving in the grade of O-3 who twice fails of selection for promotion to the next higher grade and whose name is not on a list of officers recommended for promotion shall be eliminated from an active status not later than the 1<sup>st</sup> day of the 7<sup>th</sup> month after the month in which the report of the selection board that considered the

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officer for the second time is approved in accordance with sections 14505 and 14513 of reference (a), unless retained under section 12646 or 12686 or continued in an active status in accordance with section 14701 of reference (a).

(c) A Reserve officer in an active status serving in the grade of O-4 who twice fails of selection for promotion to the next higher grade and whose name is not on a list of officers recommended for promotion shall be eliminated from an active status on the 1<sup>st</sup> day of the month after the month in which the officer completes 20 years of total commissioned service in accordance with sections 14506, 14513 and 14706 of reference (a), unless retained under section 12646 or 12686 or continued in an active status under section 14701 of reference (a).

(d) A Reserve officer serving in the grades of O-5 or O-6 in an active status whose name is not on a list of officers recommended for promotion to the next higher grade shall be eliminated from an active status (if not earlier removed from the Reserve Active-Status List) upon completion of 28 or 30 years of commissioned service, respectively, not later than the 1<sup>st</sup> day of the month after the month in which the officer completes such service, in accordance with sections 14507, 14514 and 14706 of reference (a), unless retained under section 12646, 12686, or 14703 or continued in an active status under section 14701 or 14703 of reference (a).

(e) Each officer of the Naval or Marine Corps Reserve in an active status in the permanent grade of O-7, shall, 30 days after he or she completes 30 years of total commissioned service computed under section 14706 of reference (a) or on the 5<sup>th</sup> anniversary of the date of his or her appointment to that grade, whichever is later, be transferred to the Retired Reserve, if qualified and applies therefor, or discharged from the Naval or Marine Corps Reserve if not qualified or does not apply for such transfer, under sections 14508(a) and 14514 of reference (a). An officer who has been recommended for promotion and who would otherwise be removed from an active status under this paragraph shall be retained in that status until he or she has been appointed or has refused appointment to the permanent grade of O-8.

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(f) Each officer of the Naval or Marine Corps Reserve in an active status in the permanent grade of O-8 shall, 30 days after he or she completes 35 years of total commissioned service computed under section 14706 of reference (a) or on the 5<sup>th</sup> anniversary of the date of his or her appointment to that grade, whichever is later, be transferred to the Retired Reserve, if qualified and applies therefor, or discharged from the Naval or Marine Corps Reserve, if not qualified or does not apply for such transfer, under sections 14508(b) and 14514 of reference (a).

(g) Notwithstanding paragraphs 3b(5)(a) through (f) above, officers appointed before 1 October 1996 who are described in former sections 6397 or 6403 of reference (a), relating to Nurse Corps officers and women officers, are entitled to be treated as they would have been treated under those sections as in effect before 1 October 1996, if that treatment would result in the date for the officers' separation from an active status being a later date than the date established under the law in effect on or after 1 October 1996. Accordingly, under the transition provisions of the Reserve Officer Personnel Management Act, such officers may be removed from an active status under conditions prescribed in chapters 36 and 573 of reference (a). These chapters detail the conditions for the separation, retirement, or discharge of Regular officers of the same grade on the active-duty list of the Navy. In addition, an officer may be eliminated from an active status under these provisions only upon the recommendation of a board convened by SECNAV.

(6) Notwithstanding any other provision in this paragraph, the following provisions of sections 12646 and 12686 of reference (a) are applicable to Reserve officers in an active status:

(a) A Reserve officer who is entitled to be credited with at least 18 but less than 19 years of service computed under section 12732 of reference (a) on the date prescribed for discharge or transfer from an active status, may not be discharged or transferred from an active status without his or her consent before the earlier of the following dates:

1. The date on which he or she is entitled to be credited with 20 years of service computed under section 12732 of reference (a); or

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2. The 3<sup>rd</sup> anniversary of the date on which he or she would otherwise be discharged or transferred from an active status.

(b) A Reserve officer who is entitled to be credited with at least 19, but less than 20 years of service computed under section 12732 of reference (a) on the date prescribed for discharge or transfer from an active status may not be discharged or transferred from an active status without his or her consent before the earlier of the following dates:

1. The date on which he or she is entitled to be credited with 20 years of service, computed under section 12732 of reference (a); or

2. The second anniversary of the date on which he or she would otherwise be discharged or transferred from an active status.

(c) A Reserve officer on active duty (other than for training) who is within 2 years of qualifying for retirement under section 6323 of reference (a) on the date on which he or she would otherwise be removed from an active status, shall not be involuntarily released from active duty before qualifying for retirement under that section, unless the officer reaches an age at which transfer from an active status or discharge is required under paragraph 11 of this enclosure. An officer who is retained on active duty under this provision may not be removed from an active status while he or she is on that active duty, except when separated for cause.

(d) Under section 12686 of reference (a), a Reserve officer who is on active duty and is within 2 years of becoming eligible for retired pay under a purely military retirement system, may not be involuntarily released from that duty before he or she becomes eligible for that pay, except when separated for cause, or when eligible for retired pay under section 12731 of reference (a).

(e) Per section 14513 of reference (a), normal separation of Reserve officers in an active status who are not on active duty shall be via either transfer to the Retired Reserve, if such officers are eligible and so request, or discharge. Transfer to the inactive status list shall only be used when

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CHNAVPERS or CMC makes a finding that the officer has a specific skill which cannot be met by the active and reserve forces in time of mobilization.

c. LDOs

(1) Permanent LDOs. The separation and retirement of Regular permanent LDOs are governed by section 6383 of reference (a).

(a) Unless selectively continued to meet requirements of his or her competitive category and grade per procedures under references (j) or (k), each Regular permanent LDO below O-5 in the Navy and each Regular permanent LDO in the Marine Corps shall be retired on the last day of the month following the month in which he or she completes 30 years of active Naval Service, exclusive of active duty for training in a Reserve component. Under no circumstances may an LDO officer remain on active duty beyond age 62.

(b) Each permanent LDO serving in the grade of O-3 or O-4 who has twice failed of selection for promotion to the next higher grade and is not on a promotion list to a higher grade shall be retired, if eligible to retire, or Honorably discharged on the date requested by the officer and approved by SECNAV, but not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the President approves the report of the board in which the officer failed of selection for the second time. A permanent LDO serving in the grade of O-3, who twice fails of selection to O-4, or an O-4 who twice fails of selection to O-5, may be selectively continued on active duty upon the recommendation of a selection board convened by SECNAV until the completion of 20 years of active service.

(c) Unless continued by a selection board convened by SECNAV, a Regular permanent LDO in the grade of commander in the Navy who has twice failed of selection for promotion to the grade of captain, and is not on a list of officers recommended for promotion to the grade of captain shall, if eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by SECNAV but not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the President approves the report of the board in which the officer is considered as having failed of selection for the second time. If the officer is not eligible for retirement as a commissioned officer, he or she shall be retired not later

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than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

(2) Temporary LDOs

(a) The appointments of temporary LDOs who are not selectively continued on active duty under reference (j) or (k) are terminated on the earlier of the following dates: (1) the last day of the month following the month in which the officer completes 30 years of active Naval Service, other than active duty for training or (2) a date requested by the officer, and approved by the Secretary, providing that the requested retirement date does not exceed the required statutory retirement date resulting from the second failure to select for promotion in accordance with reference (j).

1. A temporary LDO with a permanent Regular warrant officer status whose LDO appointment is terminated will be afforded the option of voluntary retirement in lieu of reversion to permanent warrant officer status. A temporary LDO who reverts to a permanent warrant officer status is subject to involuntary retirement or Honorable discharge as a warrant officer under applicable statutes and as provided for under paragraph 3d of this enclosure.

2. A temporary LDO with a permanent Regular enlisted status whose appointment is so terminated will be afforded the option of voluntary retirement in lieu of reversion to permanent enlisted status and where applicable, Honorable discharge by reason of expiration of enlistment.

(b) A temporary LDO who is not eligible for retirement under section 6323 of reference (a) and who has twice failed of selection to the next higher temporary grade, may either be retained on active duty in the temporary grade held if within 2 years of retirement eligibility, per enclosure (2) of reference (j), as of 30 June of the fiscal year in which the second failure of selection occurs, or may be reverted to permanent warrant officer or enlisted status if not within 2 years of attaining retirement eligibility.

d. Permanent Regular Warrant Officers

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(1) Unless selectively continued on active duty in the Navy under reference (j), or in the Marine Corps under reference (k), a permanent Regular warrant officer who has at least 30 years of active service shall be retired on the 1<sup>st</sup> day of the 1<sup>st</sup> month beginning after a period of 60 days has run from the date that he or she completes that service.

(2) Unless retired or separated sooner under some other provision of this instruction, a permanent Regular warrant officer who has twice failed of selection for promotion to the next higher permanent Regular warrant officer grade shall:

(a) If he or she has more than 20 years of active service on (1) the date when SECNAV approves the report of the board under section 576(e) of reference (a); or (2) the date when his or her name was removed from a promotion list under section 579 of reference (a), whichever applies, be retired not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the applicable date above.

(b) If he or she has at least 18 but not more than 20 years of active service on (1) the date when SECNAV approves the report of the board under section 576(e) of reference (a); or (2) the date when his or her name was removed from a promotion list under section 579 of reference (a), whichever applies, be retired not later than the date determined under the next sentence unless he or she is selected for promotion to the next higher Regular warrant officer grade before that date. The date of retirement of a warrant officer under the preceding sentence shall be on a date specified by SECNAV, but not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the date upon which he or she completes 20 years of active service.

(c) If he or she has less than 18 years of active service on (1) the date when SECNAV approves the report of the board under section 576(e) of reference (a) or (2) the date when his or her name was removed from a promotion list under section 579 of reference (a), whichever applies, be Honorably discharged from the Regular Navy or Marine Corps not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the applicable date.

(d) Notwithstanding paragraph 3d(2)(c), immediately above, if on the date on which a warrant officer is to be separated under that paragraph the warrant officer has at least



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18 years of active service, he or she shall be retained on active duty until retired under paragraph 3d(2)(b) in the same manner as if the warrant officer had had at least 18 years of service on the applicable date under paragraph 3d(2)(b).

(3) Notwithstanding paragraph 3d(2)(c), a permanent Regular warrant officer with less than 18 years of active service creditable toward retirement who is subject to discharge as a result of having twice failed of selection to the next higher permanent Regular warrant officer grade, and who holds a temporary appointment in a grade above CW05, shall continue serving on active duty until qualified for retirement under reference (a).

(4) Notwithstanding paragraph 3d(2)(c), a permanent Regular warrant officer with less than 18 years of active service creditable toward retirement who is subject to discharge as a result of having twice failed of selection to the next higher permanent Regular warrant officer grade, may request enlistment and, in the discretion of SECNAV, be enlisted in a grade prescribed by the Secretary, but not in a grade lower than that held immediately before original appointment as a warrant officer. In making recommendations to SECNAV, CHNAVPERS and CMC shall consider the individual's record of service as a warrant officer, the length of service performed as a warrant officer, and the relationship of inventory to approved authorizations in the Navy enlisted classification or military occupational specialty in which the individual would serve in an enlisted status.

(5) SECNAV may defer, for not more than 4 months, the retirement or separation of any Regular warrant officer if, because of unavoidable circumstances, evaluation of his or her physical condition and determination of his/her entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date on which he or she would otherwise be required to be retired or discharged.

e. Permanent Reserve Warrant Officers

(1) A permanent Reserve warrant officer who has at least 30 years of active service, other than active duty for training, or has completed at least 30 years of service computed

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under section 12732 of reference (a), shall be transferred to the Retired Reserve or the Naval or Marine Corps Reserve Retired List, as appropriate, not later than 6 months after he or she completes that service. A warrant officer of the Naval or Marine Corps Reserve who is subject to separation under this paragraph, may be selectively retained to meet requirements identified for his or her grade, competitive category, and designator in accordance with procedures described in references (k) or (m).

(2) Unless retired or separated under some other provision of this instruction, a Reserve warrant officer (exclusive of CWO4) who has twice failed of selection for promotion to the next higher permanent warrant officer grade, who is not on a promotion list, and who has:

(a) Performed more than 20 years of active service or who has performed at least 20 years of service computed under section 12732 of reference (a) on (1) the date when SECNAV approves the report of the promotion selection board; or (2) the date when his or her name was removed from a promotion list, whichever applies, shall be transferred to the inactive status list, or upon his or her request, to the Retired Reserve or Naval or Marine Corps Reserve retired list, as appropriate.

(b) Performed at least 18 but less than 20 years of service computed under section 12732 of reference (a) on (1) the date when SECNAV approves the report of the promotion selection board, or (2) the date when his or her name was removed from the promotion list, whichever applies, shall not be discharged or transferred from an active status without his or her consent before the earlier of the following dates unless sooner separated for cause under paragraph 1 of this enclosure:

1. The date on which he or she is entitled to be credited with 20 years of service computed under section 12732 of reference (a); or

2. If he or she has at least 19 years of service computed under section 12732 of reference (a), the second anniversary of the date on which he or she would otherwise be discharged or transferred from an active status.

3. If he or she has at least 18 but less than 19 years of service computed under section 12732 of reference (a),

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the third anniversary of the date on which he or she would otherwise be discharged or transferred from an active status.

(c) Performed less than 18 years of service computed under section 12732 of reference (a) on (1) the date when SECNAV approves the report of the selection board; or (2) the date when his or her name is removed from the promotion list, whichever applies, may request enlistment and in the discretion of SECNAV be enlisted in a grade prescribed by the Secretary, but not in a grade lower than that held immediately before original appointment as a warrant officer. In making recommendations to SECNAV, CHNAVPERS and DC/S (M&RA) shall consider the individual's record of service as a warrant officer, the length of service performed as a warrant officer, and the needs of the Service in the Navy enlisted classification or military occupational specialty in which the individual would serve in an enlisted status.

(d) Not requested transfer to the Naval or Marine Corps Reserve retired list as provided in paragraph 3e(2)(a), is not eligible for retention in an active status as provided in paragraph 3e(2)(b), and does not request enlistment as provided in paragraph 3e(2)(c), or is denied enlistment, shall be Honorably discharged from the Naval or Marine Corps Reserve.

(3) A Reserve warrant officer on active duty (other than active duty for training) who, on the date when he or she would be otherwise discharged or removed from an active status without his or her consent under paragraph 3e(2), is within 2 years of qualifying for retirement under section 6323 of reference (a), shall not be involuntarily released from active duty before qualifying for retirement under that section, unless the officer reaches an age at which transfer from an active status or discharge is required. An officer who is retained on active duty under this paragraph may not be removed from an active status while serving on that active duty.

(4) SECNAV may defer, for not more than 4 months, the retirement or separation of any warrant officer if, because of unavoidable circumstances, evaluation of his or her physical condition and determination of his or her entitlement to retirement or separation for physical disability requires hospitalization or medical observation that cannot be completed before the date when he or she would otherwise be required to be retired or discharged.

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4. Unqualified for Promotion

a. Under section 630 of reference (a), an officer, other than an LDO, serving in the grade of O-1 who is found unqualified for promotion to O-2 shall be honorably discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion. Section 14503 of reference (a) provides for separation of inactive-duty Reserve officers found not qualified for promotion to O-2.

b. Per section 5596 of reference (a) and reference (j), each temporary LDO serving in the grade of O-1 or O-2 who is found not qualified for promotion to the next higher grade may have his or her appointment terminated by SECNAV and be reverted to his or her permanent warrant or enlisted status.

c. Per section 6383(e)(2) of reference (a), an LDO on the active duty list of the Navy, or on the active duty list of the Marine Corps, who is serving in the grade of O-1, who is found not qualified for promotion to the next higher grade, shall be honorably discharged on the date requested by the officer and approved by SECNAV, but not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the officer was found not qualified for promotion.

d. Per section 6383 (e)(1) of reference (a), an LDO on the active duty list of the Navy, or on the active duty list of the Marine Corps, who is serving in the grade of O-2, who is considered as having failed of selection to the next higher grade, shall be honorably discharged on the date requested by the officer and approved by SECNAV, but not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the higher grade for the second time.

e. A Regular officer subject to separation solely under the provisions of paragraphs 4a or b who has not satisfied his or her statutory military obligation, as described in section 651 of reference (a), shall be required to accept an appointment in a Reserve component in an active status.

f. A Reserve officer subject to separation solely under the provisions of paragraph 4a or b who has not satisfied his or her

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statutory military obligation, as described in section 12645 of reference (a), may be so separated without regard to military obligation.

g. The authority to separate an officer under this section shall not be used when separation for cause under the provisions of reference (a) and paragraph 1 of this enclosure is appropriate.

5. Failure to Accept an Appointment to O-2

a. An officer who fails to accept a permanent or temporary appointment to the grade of O-2 shall be processed for an honorable discharge using the notification procedure of enclosure (7).

b. As provided in DoD Instruction 1304.25 of 25 August 1997 (NOTAL), CHNAVPERS or DC/S (M&RA) may not separate an officer under this section until the officer has satisfied the obligated service, referred to in paragraphs 1c(1) and 4a of enclosure (2), except in the case of Reserve officers, who may be separated under section 14503(c) of reference (a) under regulation prescribed by the Secretary of Defense.

6. Parenthood. An officer may be separated by reason of parenthood if it is determined that the officer is unable to perform his or her duties satisfactorily or is unavailable for worldwide assignment or deployment.

7. General Demobilization or Reduction in Authorized Strength. Reserve officers may be released from active duty as a part of a general demobilization or reduction in authorized strength. However, under section 12312 of reference (a), an officer serving on active duty under an active duty agreement executed under section 12311 of reference (a) may not be released from active duty without his or her consent during the period of the agreement because of reduction in actual personnel strength, unless his or her release is recommended by a board of officers (other than that prescribed in enclosure (1)) convened by SECNAV for the purpose of general demobilization or reduction of authorized strength. Specific procedures governing the convening of such boards will be established by the Secretary when a reduction in authorized strength is required.

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8. Release from Active Duty

a. When determined to be in the best interest of the service, SECNAV may, in those cases where no other reason for separation is set forth in this instruction, release a Naval or Marine Corps Reserve officer from active duty, without the requirement for the officer to be heard by a BOI or any other formal board before the release.

b. The following statutory limitations exist regarding the release of Reserve officers from active duty:

(1) Under section 12313(b) of reference (a), a Reserve officer may be released from active duty (other than for training) in time of war or national emergency declared by Congress or the President after January 1, 1953 only upon the recommendation of a BOI approved by CHNAVPERS or DC/S (M&RA), as appropriate, unless the officer waives the board or his or her release is otherwise authorized by law. This subparagraph does not apply to either the Navy or Marine Corps during a period of demobilization or reduction in strength of that service.

(2) Under section 12312 of reference (b), a Reserve officer serving on active duty under an active duty agreement executed under section 12311 of reference (a) may not be involuntarily released from active duty during the period of the agreement because of a reduction in actual personnel strength or for any other reason unless such release is recommended by a BOI as described in enclosure (8), except when he or she is:

(a) Dismissed or discharged under the sentence of a court-martial;

(b) Released because of an unexplained absence without leave for at least 3 months;

(c) Released because of a conviction and sentence to confinement in a Federal or State penitentiary or correctional institution and the sentence has become final; or

(d) Released under paragraph 3 of this enclosure for having twice failed of selection for promotion.

(3) Under section 12686 of reference (a), a Reserve officer who is on active duty (other than for training) and is within 2 years of becoming eligible for retired pay under a purely military retirement system shall not be involuntarily released from that duty before he or she becomes eligible for that pay, unless his or her release is approved by the Secretary.

c. All Marine Corps AR field grade officers (excluding officers within 2 years of becoming eligible for retirement with pay) are subject to release from active duty when selected for early release from active duty by the DC/S (M&RA)-directed Selective Early Release from Active Duty (SERAD) Board per subparagraph d of this paragraph. Non-career-designated AR officers and statutory tour AR officers serving on active duty shall be released from active duty upon expiration of active service, as specified in the active duty agreement under which serving. There are no approved general officer billets in the AR competitive category. An AR colonel who desires to compete for the grade of Reserve O-7 and is otherwise eligible to compete for O-7 except for being a member on the AR program must be released from active duty in the AR program at least 60 days prior to the convening date of the Reserve general officer selection board.

d. When required, DC/S (M&RA) shall convene SERAD Boards, which shall recommend the early release from active duty of Marine Corps AR officers in the grades of major, lieutenant colonel, and colonel. Specific procedures governing the convening of SERAD Boards, including the number of officers in each field grade that will be considered by a particular SERAD Board, will be established by DC/S (M&RA).

(1) Normally, majors and lieutenant colonels shall become SERAD-eligible when they attain 3 years time-in-grade, and colonels shall become SERAD-eligible when they attain 2 years time-in-grade.

(2) Any officer who is selected for early release from active duty as a result of the action of a SERAD Board and who is not on a promotion list will be released from active duty by the end of the fiscal year for which that SERAD Board was convened. If necessary, involuntary release will be deferred to enable the officer to qualify for retirement with pay. Such deferments will end on the earlier of either:

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(a) The 1<sup>st</sup> day of the month following the month in which the officer qualifies for retirement with pay, or

(b) The day on which the officer must be removed from an active status under section 14506 or 14507 of reference (a) (the officer will then be given the opportunity to request transfer to the Retired Reserve or to be honorably discharged).

e. When required, CHNAVPERS shall convene a SERAD Board which shall recommend the early release from active duty of TAR O-5s. CHNAVPERS shall establish numbers for the SERAD board by grouping TAR O-5s by their competitive category and their promotion fiscal year group. The board must review the record of all eligible TAR officers in each competitive category as of the board's convening date. Normally, TAR O-5s shall become SERAD-eligible during the 4<sup>th</sup> fiscal year after their date of rank. TAR O-5s who: are not on a promotion list, have attained 20 or more years of commissioned service as defined in enclosure (1), and are selected by a SERAD board, shall be involuntarily released from active duty by 1 September of the SERAD fiscal year (i.e., the fiscal year in which the SERAD board was convened), or the 1<sup>st</sup> day of the 7<sup>th</sup> month following the month in which the SERAD board's report is approved--whichever is later. TAR O-5 SERAD selectees who would have less than 20 years of commissioned service on 1 September of the SERAD fiscal year, will be released from active duty on the 1<sup>st</sup> day of the month after the month in which they attain 20 years commissioned service. If necessary, an officer selected for SERAD will be retained on active duty to enable the officer to qualify for retirement with pay (including early retirement). Retention of SERAD-select TAR O-5s on active duty may not extend beyond the 1<sup>st</sup> day of the month following the month in which the officer qualifies for retirement with pay (including early retirement). Retention of SERAD-select TAR O-5s on active duty will not extend beyond the 1<sup>st</sup> day of the month following the month in which the officer completes 28 years of commissioned service, unless the officer is selected for continuation on the Reserve Active-Status List under section 14701 of reference (a) or retained on active duty under section 12686 thereof. TAR O-5s considered but not selected by a SERAD board will not be considered again while in the grade of O-5.

f. TAR officers in the grade of O-6, if not on a promotion list to a higher grade, shall be involuntarily released from active duty at the end of 3 years time in grade, unless



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specifically retained by a TAR Captain Selective Retention Board. CHNAVPERS shall convene a TAR Captain Selective Retention Board under the provisions of paragraph 15 of this enclosure whenever required to retain those TAR captains best fitted to meet requirements. Officers initially retained by such a board will be released from active duty not later than the 1<sup>st</sup> day of September of the 5<sup>th</sup> fiscal year following the fiscal year of promotion, unless retained by a second TAR Captain Selective Retention Board until their completion of 30 years of commissioned service. TAR officers subject to involuntary release from active duty under this subparagraph will be retained on active duty, if necessary, to enable the officer to become eligible for retirement with pay under section 6323 of reference (a). In no case shall retention of TAR O-6s on active duty extend beyond the 1<sup>st</sup> day of the month following the month in which the officer completes 30 years of commissioned service, unless the officer is selected for continuation on the Reserve Active-Status List under section 14701 of reference (a).

g. TAR officers above the grade of O-6 will be involuntarily released from active duty on the 1<sup>st</sup> day of the month following the fourth anniversary of the officer's effective date of rank to the grade of O-7.

h. When required, CHNAVPERS shall convene an Involuntary Release from Active Duty (IRAD) Board to control end strength ceilings, grade allowances, or other requirements of the Naval Reserve Canvasser Recruiter (CANREC) program. CANREC officers selected for IRAD shall be involuntarily released from active duty not later than the 1<sup>st</sup> day of the 7<sup>th</sup> calendar month beginning after the month in which the report of the IRAD board was approved, unless the officer is retained on active duty under section 12686 of reference (a). Additionally, CANREC officers may be released from active duty at the end of their specified orders for performance or other reasons as delineated in the CANREC program governing directive.

i. Temporary recall officers not on the active duty list (Three Year Recall/One Year Recall/Active Duty for Special Work) shall be released from active duty not later than the end of their specified orders unless specifically extended by subsequent orders or retained under section 12686 of reference (a).

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9. Selective Early Retirement of Regular Officers in the Grades of O-4 and Above. Under the provisions of sections 638 and 638a of reference (a) and DOD Directive 1332.32, "Selective Early Retirement of Officers on an Active Duty List and the Reserve Active Status List and Selective Early Removal of Officers from the Reserve Active Status List" 30 September 1996 (NOTAL), Regular officers in the grades of O-4 and above may be considered for early retirement by a selection board convened by SECNAV under the provisions of reference (1). The purpose of the selective early retirement provision is to provide a means to manage an officer grade imbalance or strength overage in a competitive category such as may occur during a reduction in force. Selective early retirement shall not be used in cases where separation for cause under the provisions of reference (a) and this instruction is warranted. CHNAVPERS or DC/S (M&RA) shall justify selective early retirement in promotion plans submitted to SECNAV in accordance with reference (1).

10. Selective Early Removal of Reserve Officers from the Reserve Active-Status List. Under the provisions of section 14704 of reference (a), whenever the SECNAV determines that there are too many Reserve officers on the Reserve Active-Status List in any grade and competitive category who have at least 30 years of commissioned service under section 14706 of reference (a) or at least 20 years of service computed under section 12732 of reference (a), such officers may be eliminated from an active status by action of a continuation board which the Secretary may convene under section 14101(b) of reference (a).

11. Age Restrictions for Reserve Officers

a. Age in Grade Restrictions. A Reserve officer who has not been recommended for promotion to O-7 or above and is not a member of the Retired Reserve will be involuntarily separated under section 14515 of reference (a), unless the officer is sooner separated or continued in an active status under another provision of law, as follows: he or she will be transferred to the Retired Reserve, if he or she so requests and is qualified, or if not so qualified, honorably discharged from the Naval or Marine Corps Reserve not later than the last day of the month in which the officer reaches the following maximum ages in grade, established by sections 14509, 14510, and 14511 of reference (a):

Below O-8	-----	60 years
O-8	-----	62 years

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b. Retention Beyond Maximum Age in Grade. Except as provided in sections 12646 or 14511 of reference (a), Reserve officers will not be retained in an active status past the age in grade restrictions outlined in paragraph 11a, except as follows:

(1) Under section 14703 of reference (a), SECNAV may, with the officer's consent, retain in an active status any Reserve officer appointed in the Medical Corps, Dental Corps, Nurse Corps, or Chaplains Corps or appointed in the Medical Service Corps and designated to perform as a veterinarian, optometrist, podiatrist, allied health officer, or biomedical sciences officer. Retention may be authorized as specified in an approved SECNAV retention plan, or individually, if approved by SECNAV upon recommendation of CHNAVPERS or CMC, for whose skills a military requirement exists which cannot be met by a Regular or Reserve officer on active duty under age 60 or a Reserve officer in the Ready Reserve under that age, provided that such officer is not subject to discharge, transfer or release from active duty under sections 14503, 14504, 14505, or 14506 of reference (a). A Reserve officer will not be retained in an active status, or retained on or recalled to active duty in a retired status, solely for the purpose of increasing retired pay or as a reward for long, distinguished service. When service under these limitations is rendered after eligibility for retired pay has been achieved, such service shall be credited to the officer, under section 12308 of reference (a). An officer may not be retained in an active status under this paragraph later than the date on which the officer becomes 67 years of age.

(2) Under section 14512(b) of reference (a), SECNAV may defer the retirement under sections 14510 or 14511 of a Reserve officer in a grade above O-6 and retain the officer in an active status until he or she becomes 64 years of age. An officer so deferred shall be involuntarily separated under section 14515 of reference (a), as described in paragraph 11a of this enclosure, not later than the last day of the month in which the officer reaches the age of 64. Not more than 10 officers may be deferred at any one time, distributed between the Navy Reserve and the Marine Corps Reserve as SECNAV determines.

12. Removal from the Reserve Active-Status List. Under sections 10149 and 10152 of reference (a), Reserve commissioned officers on the Reserve Active-Status List may be removed from that list and transferred to the Inactive Status List by CHNAVPERS or DC/S(M&RA) under the following circumstances:

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a. Officers who have attained eligibility to receive non-Regular retired pay at age 60 per section 12731 of reference (a) and who, during an anniversary year, failed to earn 50 points (including membership points) per DoD Directive 1200.15 of 18 September 1997 - Assignment to and Transfer Between Reserve Categories, Discharge from Reserve Status, Transfer to the Retired Reserve and Notification of Eligibility for Retired Pay (NOTAL).

b. Officers who have completed their military service obligations under section 651 of reference (a) and have earned less than 27 retirement points (including membership points) per anniversary year and for whom no shortage of officers with their skills exists in their competitive categories and grades. However, Reserve officers may not be removed from the Reserve Active Status List for failure to meet this standard if training during the anniversary year is denied by reason of lack of funds or facilities to provide appropriate training or if circumstances of an unusual nature exist which preclude the officer from attaining at least 27 retirement points.

c. Officers who have completed their military service obligations under section 651 of reference (a) and who lack mobilization potential identified per screenings required by section 10149 of reference (a) and DoD Directive 1200.7 of 6 April 1984 - Screening the Ready Reserve (NOTAL).

d. Officers required by law to be separated and who are retirement eligible, but whose retirements have not been completed by the date of required separation. Transfer to the Inactive Status List under this authority is an interim measure and is not to be used in lieu of final separation actions requiring retirement or discharge.

13. Separation of Reserve Officers Not on Active Duty for Lack of Mobilization Potential

a. Under sections 12641, 12642, and 12683 of reference (a), SECNAV shall, when necessary, convene a board to screen Reserve officers not on active duty for their potential and availability for mobilization to active duty. Such screening will include, but is not limited to, officers in the following categories:

(1) The officer has been on the Inactive Status List (Standby Reserve) for at least 1 year.

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(2) The officer has been found by Chief, Bureau of Medicine and Surgery (BUMED) to be not physically qualified for active duty or retention in the Naval or Marine Corps Reserve. Such officers shall be afforded an opportunity for full and fair hearing before a Physical Evaluation Board prior to final action on their cases.

(3) The officer has been found by BUMED to be militarily unfit or unsuitable as a result of a medical finding not constituting physical disability. Such officers are not entitled to a hearing before a Physical Evaluation Board.

(4) An officer who fails to undergo a physical examination as required by current regulations.

(5) An officer who fails to keep the command or activity to which the officer is attached informed of the officer's current mailing address.

(6) The officer fails to respond to or comply with official correspondence within a reasonable period of time.

(7) An officer who declines to accept a permanent appointment to the next higher grade within 6 months of approval of the report of the promotion selection board that recommended the officer for promotion.

(8) Officers who have lost professional qualifications for the designation/MOS held and for whom no other designation/MOS is appropriate.

(9) Officers who fail to mobilize when ordered to do so.

(10) Officers who fail to maintain physical readiness standards.

b. Prior to the convening of a board referred to in this paragraph each officer considered will be notified in accordance with paragraph 2 of enclosure (7) of this instruction.

c. Boards to consider Reserve officers for their mobilization potential may be promotion boards reconvened for that purpose or may be convened separately under such regulations as CHNAVPERS or CMC may prescribe.

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d. CHNAVPERS or CMC, upon recommendation of the Board that an officer referred to in this paragraph should be separated for lack of mobilization potential, shall take the following action:

(1) Transfer the officer to the Inactive Status List if the officer is not qualified or does not request transfer to the Retired Reserve; or,

(2) Recommend to the Secretary that the officer be transferred to the Retired Reserve if the officer is qualified and requests such transfer; or,

(3) Recommend to the Secretary that the officer be Honorably discharged from the Naval or Marine Corps Reserve.

14. Release from Active Duty of Naval Reserve Officers on the Active Duty List by Reason of Retirement Eligibility. Naval Reserve commissioned officers and warrant officers on the active duty list who are eligible to retire with pay under the provisions of any retirement law will be released from active duty with a minimum of 6 months advance notice not later than the 1<sup>st</sup> day of the month following the month in which they become eligible to retire unless:

a. Earlier separation is dictated under any other provisions of this instruction, or

b. They officially request retirement in lieu of release from active duty, or

c. They are retained on active duty through the administrative Retention Board and consent to being so retained, or

d. The conditions described in section 12313(b) of reference (a) pertain. To obtain retirement benefits, officers must officially request and be approved for retirement. Officers eligible to retire under section 12731 of reference (a) and qualified for retired pay who are retained on active duty must have prior approval of the Secretary in order to receive active status credit in accordance with section 12308 of reference (a).

15. Boards authorized by this instruction. Boards that are convened by CHNAVPERS or CMC under this instruction shall be

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convened in accordance with regulations prescribed by CHNAVPERS or CMC as appropriate.

16. Secretarial Authority. Notwithstanding any limitation on separation authority under this instruction, SECNAV may direct the processing of any officer after determining that such processing is in the best interest of the Naval Service.